

Ernesto Santiago

v.

CANo: 04-335 Erie

CUSMT Susan Paradise Baxter

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U. S. A.

"Motion Seeking a Declaratory Judgement against Defendant Regarding Refusal To Provide PreTrial Statement, plaintiff's first Set of Interrogatories and Deposition Transcripts"

SCANNED

Now Comes Santiago, "Plaintiff" in The above Case and ask your honor if she will make a Judgement in This matter. In Order To Not Waste your honor and This Courts Time plaintiff will not reiterate what is Not Needed as To This Case and will Solely deal with The Present Issue as This Court is familiar with The matter at Present.

On July 5th, 2005 your honor issued a Case Management Order as To This Case: Discovery due By 10/4/2005. Plaintiffs PreTrial Statement due By 10/18/2005. Defendants PreTrial Statement due By 11/8/2005. Signed By Judge Susan Paradise Baxter on 7/5/2005.

On November 2nd, 2005 Defendant met with Plaintiff at F.C.I McKean and Plaintiffs Deposition Were Taken.

On November 16th, 2005 Document Number: 40 your honor made Several Rulings as To Plaintiffs motions and Also Stated that "Defendant's preTrial Statement is delinquent and should be filed Immediately". Trial was Set for The Week of January 23, 2006.

Plaintiff Acknowledges That as of July 1, 2005 This Court Converted To CM/ECF System, in case Defendant has Filed Something Plaintiff is unaware of as Regular mail is his Only way of recieving Correspondence.

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Plaintiff would like to point out that Defendant's pretrial statement due date of 11/8/05 has since expired and Defendant has ignored your honors 11.16.05 Minute Entries to immediately file Defendant's pretrial statement.

Plaintiff also points out that on 9/28/05 he mailed Defendant "Plaintiff's first set of Interrogatories" along with other documents. On November 2nd, 2005 Defendant told plaintiff that he would answer plaintiff's Interrogatories by the following week. Defendant has already surpassed the allowed 30 days and has ignored our verbal agreement.

Plaintiff lastly asserts he has not received his copy of the "Deposition Transcripts" taken 11/2/05 and the trial date is less than 60 days away. Plaintiff has a right to review and clarify the deposition.

Conclusion

Defendant has violated the scheduling order in failing to obey the pretrial order (Federal Rules of Civil Procedures) Rule 16.F. Defendant did not file dispositive motions as "WDPALR" 16.1.2A7 and B allow and is also in violation of "WDPALR" 16.1.4 as he did not file pretrial statements and should be penalized in accordance to L.R. 16.1.4G.

Defendant has not even asked this court for an extension, etc. explaining his failure to act within the scope of both the F.R.C.P. and WDPALR.

Plaintiff asks your honor to make a judgment as she sees fit as Defendant continues to be delinquent in this matter.

Respectfully Submitted Pro-Se
Ernesto Santiago Pro-Se
12-4-05

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Certificate of Service

I Certify That on December 4th, 2005 I mailed Via First Class Pre Paid Postage To The Clerk of Court The original and The AUSA Paul Skirtich a Copy of The: Motion Seeking a declaratory Judgement against Defendant Regarding Refusal to Provide preTrial Statements, plaintiffs first Set of Interrogatories and Deposition Transcripts; To The following addresses: Clerk of Court
P.O. Box 1820
Erie, PA 16567

Paul E. Skirtich
Assistant U.S. Attorney
U.S. Post Office & Courthouse
700 Grant Street
Suite 4000
Pittsburgh, PA 15219

Respectfully Submitted
Pro-Se, ~~Ernesto Santiago~~
12-4-05